IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 16829 of 2007(C)

PETITIONER:

P.K.JOSEPH, S/O.OUSEPH KURIAN,
KARINGOTTUMATTATHIL HOUSE, AYARKUNNAM,
KOTTAYAM DISTRICT.

BY ADV. SRI.P.KESAVAN NAIR
SRI.K.G.CLEETUS

RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVAN, THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.

2. DEPUTY CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL CIRCLE, KOTTAYAM.

3. EXECUTIVE ENGINEER, KERALA STATE
ELECTRICITY BAORD, ELECTRICAL DIVISION,
PALLOM.

4. ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
AYARKUNNAM, KOTTAYAM DIST.

BY SC SRI. P.P. THAJUDEEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE DISMANTLING NOTICE DATED 17.12.2001 ISSUED BY THE 3RD RESPONDENT.

EXT.P2 TRUE COPY OF THE NOTICE DATED 24.4.2002 ISSUED BY THE 4TH RESPONDENT.

EXT.P3 TRUE COPY OF THE DISMANTLING NOTICE DATED 13.11.2002 ISSUED BY THE SUB ENGINEER IN CHARGE ON BEHALF OF 4TH RESPONDENT.

EXT.P4 TRUE COPY OF THE LETTER DATED 27.10.2003 SENT BY MEMBER (DISTRIBUTION), K.S.E.B.,THIRUVANANTHAPURAM.

EXT.P5 TRUE COPY OF THE ORDER OF 1ST RESPONDENT DATED 29.9.2002

EXT.P6 TRUE COPY OF THE ORDER NO. B.O. (FB) NO.1416/2002 (DPCI)/5/2002 DATED 18.12.2002 OF THE FIRST RESPONDENT.

EXT.P7 TRUE COPY OF THE COMPLAINT DATED 13.10.2004 SENT TO THE CHIEF MINISTER OF KERALA.

EXT.P8 TRUE COPY OF THE LETTER DATED NIL ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P9 TRUE COPY OF THE NOTICE DATED 22.11.2004 ISSUED BY THE 4TH RESPONDENT.

EXT.P10 TRUE COPY OF THE NOTICE DSATED 13.6.2005 ISSUED BY THE ASST. ENGINEER, K.S.E.B., AYARKUNNAM.

EXT.P11 TRUE COPY OF THE REVENUE ADALATH DECISION DATED 28.1.2006

EXT.P12 TRUE COPY OF THE NOTICE DATED 30.9.2006 ISSUED BY THE 4TH RESPONDENT.

EXT.P13 TRUE COPY OF THE NOTICE DATED 12.10.2006 ISSUED BY THE 4TH RESPONDENT.

EXT.P14 TRUE COPY OF THE ORDER DATED 24.3.2007 ISSUED TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 16829 OF 2007

Dated this the 2nd day of August, 2007

JUDGMENT

Heard counsel for the petitioner and standing counsel for KSEB. Petitioner is challenging Ext.P13 whereunder a further sum of Rs. 80998/- is demanded under One Time Settlement scheme. Petitioner has heavily relied on ext.P11 whereunder the Revenue Adalat has recommended waiver of fixed charges, rent and current charges from February 2002 to December, 2003. The further recommendation was to recover current charges from 12/2004 to 12.7.2005, that is until date of dismantling. Standing counsel for KSEB submitted that Ext.P11 is only in the nature of recommendation and the Board is not bound to accept it. He pointed out that petitioner even after retaining connection under conditional court orders and orders from Consumer Disputes Redressal Forum, cannot ask for waiver of fixed charges and therefore the recommendation of the Revenue Adalat to the contrary was unacceptable to the Board.

2. After hearing both sides, and after going through Ext.P11 and

P13, I feel petitioner is entitled to some relief, though not to the extent recommended by the Revenue Adalat. Petitioner cannot ask for full waiver of fixed charges because it is found by the Revenue Adalat itself that the petitioner managed to retain connection under interim orders of court. Therefore fixed charges cannot be waived in full. However, it is seen that petitioner is an industry which worked on and often and was ultimately closed and supply disconnected and installation dismantled. In the circumstances, I feel the recommendation of the Revenue Adalat should not have been ignored by KSEB. I therefore modify Ext.P13 by reducing the liability to Rs. 25,000/- and petitioner is granted time to pay the same on or before 15.9.2007 without any further liability for surcharge or interest.

(C.N.RAMACHANDRAN NAIR)
Judge